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TM

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/818,717 03/14/97 WILSON

D 755.35259X00

PM82/0928

EXAMINER

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BATSON, V

ART UNIT	PAPER NUMBER
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3671

DATE MAILED:

09/28/99

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/818,717	Applicant(s) DAVID E. WILSON
	Examiner VICTOR BATSON	Group Art Unit 3671

Responsive to communication(s) filed on Jul 13, 1999.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1, 4-14, 17-29, and 32-45 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) 1, 4-14, 17-29, 32-41, 44, and 45 is/are allowed.

Claim(s) 42 and 43 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 112

✓ 1. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 42 line 5, "the seed grain" lacks proper antecedent basis. The examiner suggests inserting "seed" before "grain" in line 4. In claim 42 line 9, "seed grain" lacks proper antecedent basis and should probably be changed to "the seed grain".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 42 & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (4,411,325) in view of Woodle (5,199,518).

Hamilton discloses a device comprising a frame and hopper, with a support joined to opposed sides of the frame and to spaced apart locations of the hopper (each corner of the structure 10,

with weight sensing devices which sense a weight of seed grain in the hopper transferred through the support to the frame and provides a display 16 coupled to the output for displaying the sensed weight of the seed grain in the hopper. The examiner notes that in col 2 lines 54-61, Hamilton discloses that the support structure is a hopper that carries grain. Therefore, it would have been obvious to use the device of Hamilton with a grain drill since a grain drill is a device which includes a hopper attached to a frame that carries grain. Additionally, it is important in the planting art to determine how much grain is in the hopper of a grain drill, and when the grain drill hopper is empty or near empty. The device of Hamilton would provide such desired information.

Concerning claim 43 the claimed method steps would be obvious in modifying a grain drill as disclosed by Hamilton.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify the device of Hamilton by supporting the load cells on a support comprising a pair of weight bearing supports as taught by Woodle since such is a known load cell mounting configuration. It also would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify the device of Hamilton by using it with a grain drill since a grain drill is a device which inherently uses a frame mounted hopper, and Hamilton's device is

designed to be used with frame mounted hoppers as taught by Hamilton. Additionally, it would have been obvious to a person of ordinary skill in the art at the time the invention was made, to modify the device of Hamilton by using it with a grain drill so that the operator can determine when the hopper is empty or near empty.

Allowable Subject Matter

4. Claims 1,4-14,17-29,32-41,44,45 are allowed.

Response to Arguments

5. It is noted that applicant has failed to provide any arguments to the office action dated 6/28/99.

Final Rejection

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the

statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

7. Any inquiry concerning this communication should be directed to Examiner Victor Batson whose telephone number is (703) 305-6356. The examiner can be normally reached Monday through Friday (except Wednesday) from 7:00 am to 5:00 pm, Eastern Standard Time.
8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-7687.

September 27, 1999

Victor Batson
Victor Batson
Primary Examiner
Art Unit 3671